

Aug 04 2005 4:53PM Power Mate Technology

(408) 986-8280

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PAGE 02

ATTACHMENT 9Page 1 of 12RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO:CITY OF SUNNYVALE  
P.O. BOX 3707  
SUNNYVALE, CA 94088-3707  
ATTN: REAL PROPERTY MANAGER

APN: \_\_\_\_\_

## PARKING EASEMENT AGREEMENT

This PARKING EASEMENT AGREEMENT is made as of Aug 4, 2005, by and  
between Mtn View Chinese Christian Church ("Grantor"), and  
\_\_\_\_\_ ("Grantee").

## RECITALS

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A. Grantee is the owner of a [CHECK ONE: ☒ fee interest, ☐ leasehold interest]  
in that certain real property generally located at 175 E. Dana St. Mtn View, CA 94041  
Mtn View Sunnyvale, California, and more particularly described in Attachment No. 1 attached hereto (the  
"Grantee Property").

B. On \_\_\_\_\_ the City of Sunnyvale approved Grantee's  
application for [CHECK ONE: ☐ construction of a new building, ☐ establishment of a new  
use, ☐ enlargement of an existing building, ☒ change in an existing use] on the Grantee  
Property.

C. As a condition of approval of Grantee's application and in accordance with the  
requirements of Chapter 19.46 of the City of Sunnyvale Municipal Code, Grantee is required to  
provide \_\_\_\_\_ (\_\_\_\_\_) off-street parking spaces for use by its customers,  
employees, agents and invitees.

D. Grantee desires to satisfy its off-street parking obligations by utilizing parking  
spaces located on that certain real property owned by Grantor, generally located at 175 E. Dana St.  
Mtn View, CA 94041, California, and more particularly described in Attachment  
No. 2 attached hereto (the "Grantor Property").

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E. Grantor desires to grant to Grantee an irrevocable, exclusive easement appurtenant to the Grantee Property for vehicular parking purposes over and across that certain portion of the Grantor Property depicted on Attachment No. 3 attached hereto on the terms and conditions described below.

NOW THEREFORE, the parties hereby agree as follows:

### AGREEMENT

1. Grant of Parking Easement. Grantor hereby grants to Grantee, for use by Grantee and its employees, agents, customers and invitees, an irrevocable, exclusive easement appurtenant to the Grantee Property for vehicular parking over those portions of the Grantor Property (the "Parking Easement Area") depicted on Attachment No. 3 attached hereto, including a nonexclusive right of pedestrian and vehicular ingress and egress across, over and through all entrances, exits, trafficways and pathways which are reasonably necessary for utilization of the parking rights granted by Grantor to Grantee.

2. Consideration for Grant of Easement. In consideration of Grantor's grant of the parking easement to Grantee, Grantee shall pay to Grantor No Charge for this area

3. Maintenance and Repair. Grantor shall, at its expense, maintain the Parking Easement Area in a first-class manner. Grantor's maintenance obligations shall include but not be limited to: (i) maintenance of all sidewalks, paths and other paved areas in clean and weed-free condition; (ii) maintenance of all such areas clear of dirt, mud, trash, debris or other matter which is unsafe or unsightly; and (iii) removal of all trash, litter and other debris from improvements and landscaping.

4. Indemnification. Grantee shall indemnify and defend Grantor and its officers, directors, partners, members, employees, agents and representatives (collectively, "Indemnitees") free and harmless from all liability for physical injury to persons or property occurring as a result of or otherwise arising from the use of the Parking Easement Area by Grantee or its employees, agents, customers or invitees pursuant to this Agreement other than liability attributable to the negligence or willful misconduct of any Indemnitees. The foregoing obligation to defend, indemnify and hold harmless shall survive any termination of this Agreement.

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5. Insurance. Grantee shall procure and maintain during the term of this Agreement, at its sole cost and expense, a policy or policies of either commercial or comprehensive general liability insurance or equivalent coverage reasonably acceptable to Grantor relating to the use of the Parking Easement Area by Grantee and its employees, agents, customers and invitees.

All such policies shall be written to apply to all bodily injury, property damage, personal injury and other covered loss, however occasioned, occurring during the policy term, and shall be endorsed to add Grantor and its officers, directors, partners, members, employees, agents and representatives as additional insureds, to provide that such coverage shall be primary and non-contributing and that any insurance maintained by Grantor shall be excess insurance only. The insurance shall provide for severability of interests; shall provide that an act or omission of one of the named or additional insureds shall not reduce or avoid coverage to the other named or additional insureds; shall afford coverage for all claims based on acts, omissions, injury and damage, which claims occurred or arose (or the onset of which occurred or arose) in whole or in part during the policy period; and shall contain an endorsement requiring 30 days' written notice from the insurance company to Grantor at the address of the Grantor Property before cancellation or change in the coverage, scope, or amount of any policy.

The insurance required to be carried under this paragraph shall be written by companies rated A K or better in Bests Insurance Guide and authorized to do business in California. Grantee shall deliver to Grantor on or before any entry upon the Parking Easement Area, a certified copy of the insurance policy and evidence showing that all premiums have been paid for the full policy period.

6. Third Party Beneficiary. The City of Sunnyvale shall be deemed a third party beneficiary of this Agreement and shall have the right, but not the obligation, to bring an action at law or in equity to enforce the terms of this Agreement.

7. Termination or Amendment. This Agreement may be amended or terminated only by written agreement and only with the prior written consent of the City of Sunnyvale.

8. Independent Legal Advice. Grantor and Grantee each acknowledges that it has obtained independent legal advice in connection with the drafting of this Agreement, or has voluntarily elected not to seek such independent legal advice, and neither Grantor nor Grantee is relying upon the City of Sunnyvale or its members, officials or employees to protect its rights or interests in connection with this Agreement.

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**ATTACHMENT**

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9. Non-Liability of Officials and Employees of the City, General Release. Neither the City nor any member, official or employee of the City shall be liable to Grantor or Grantee, or to any successor in interest of Grantor or Grantee, for any amount which may become due to Grantor or Grantee in connection with this Agreement. Grantor and Grantee each hereby waives and releases any claim it may have against the City and/or the members, officials or employees of the City with respect to any amount which may become due to Grantor or its successors, or Grantee or its successors, in connection with this Agreement. Grantor and Grantee each makes such release with full knowledge of Civil Code Section 1542 and hereby waives any and all rights thereunder to the extent of this release, if such Section 1542 is applicable. Section 1542 of the Civil Code provides as follows:

"A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."

**Grantor Initials**

**Grantee Initials**

**10. Miscellaneous.**

a. This Agreement shall be recorded in the Official Records of Santa Clara County.

b. The provisions of this Agreement shall not be deemed to constitute a dedication for public use nor to create any rights in the general public.

c. The grants contained in this Agreement shall be subject to all easements, rights-of-way and other matters of record or apparent which are not expressly subordinated hereto.

d. The headings of this Agreement are for purposes of reference only and shall not limit or define the meaning of the provisions of this Agreement.

e. The easements and obligations granted and imposed herein shall be binding on and inure to the benefit of the successors and assigns of Grantor and Grantee and are intended to bind and burden the Grantor Property and the Grantee Property as provided in California Civil Code Section 1462.

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f. In the event any action is initiated to interpret or enforce this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees and costs.

g. If any one or more of the terms, provisions, promises, covenants or conditions of this Agreement shall be to any extent adjudged invalid, unenforceable, void or voidable for any reason whatsoever by a court of competent jurisdiction each and all of the remaining terms, provisions, promises, covenants and conditions of this Agreement shall not be affected thereby and shall be valid and enforceable to the fullest extent permitted by law.

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ATTACHMENT 9

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IN WITNESS WHEREOF, the parties have entered into this Agreement as of the date first set forth above.

GRANTOR:

Mtn View Chinese  
Christian Church

By \_\_\_\_\_

Its Tenn Ni Lu

GRANTEE:

\_\_\_\_\_  
\_\_\_\_\_

By \_\_\_\_\_

Its \_\_\_\_\_

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ATTACHMENT 6

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STATE OF CALIFORNIA )

) ss.

COUNTY OF \_\_\_\_\_)

On \_\_\_\_\_, before me, \_\_\_\_\_  
\_\_\_\_\_, personally appeared \_\_\_\_\_, personally known to me (or  
proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are  
subscribed to the within instrument and acknowledged to me that he/she/they executed the same  
in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument,  
the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Public

(Seal)

STATE OF CALIFORNIA )

) ss.

COUNTY OF \_\_\_\_\_)

On \_\_\_\_\_, before me, \_\_\_\_\_  
\_\_\_\_\_, personally appeared \_\_\_\_\_, personally known to me (or  
proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are  
subscribed to the within instrument and acknowledged to me that he/she/they executed the same  
in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument,  
the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Public

(Seal)

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ATTACHMENT 9

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STATE OF CALIFORNIA )

) ss.

COUNTY OF \_\_\_\_\_)

On \_\_\_\_\_, before me, \_\_\_\_\_  
\_\_\_\_\_ personally appeared \_\_\_\_\_, personally known to me (or  
proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are  
subscribed to the within instrument and acknowledged to me that he/she/they executed the same  
in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument,  
the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Public

(Seal)

STATE OF CALIFORNIA )

) ss.

COUNTY OF \_\_\_\_\_)

On \_\_\_\_\_, before me, \_\_\_\_\_  
\_\_\_\_\_ personally appeared \_\_\_\_\_, personally known to me (or  
proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are  
subscribed to the within instrument and acknowledged to me that he/she/they executed the same  
in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument,  
the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Public

(Seal)



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B.T. Commercial

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ATTACHMENT NO. 1

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GRANTEE PROPERTY

[TO BE INSERTED]

Agreements/OnStreetParkingEasement

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ATTACHMENT G  
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ATTACHMENT NO. 2

GRANTOR PROPERTY

[TO BE INSERTED]

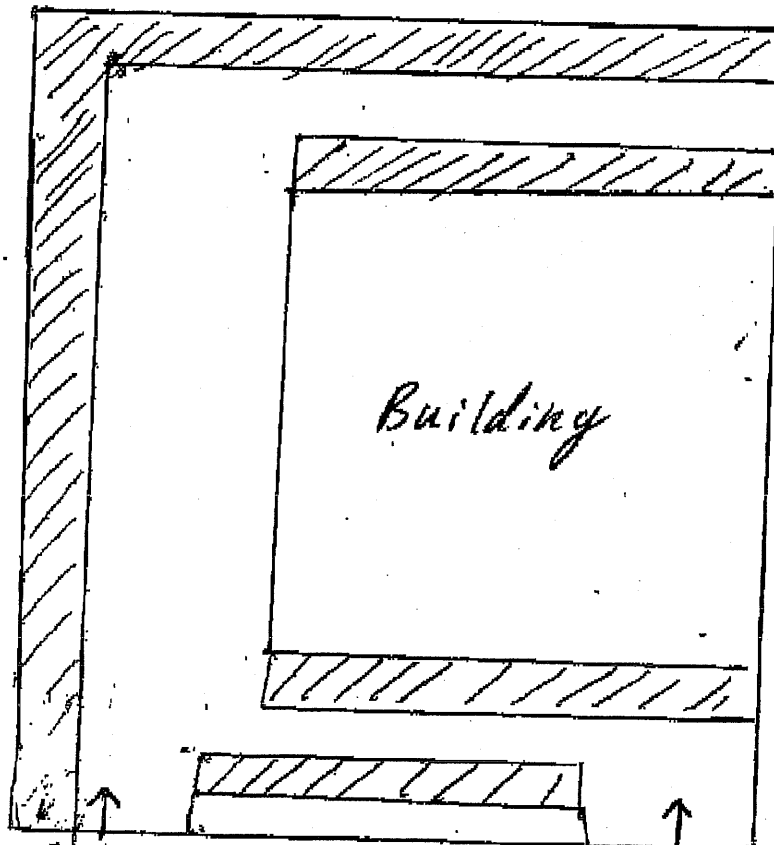
175 E. Dana St. Manteca; CA 94041


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ATTACHMENT NO. 3

PARKING EASEMENT AREA

[TO BE INSERTED]



 Parking Area

ENTRANCE FRONT (Dana Street)

Mtn View. Chinese Christian Church  
Property

ATTACHMENT G  
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IN WITNESS WHEREOF, the parties have entered into this Agreement as of the date first set forth above.

GRANTOR:

Mtn View Chinese  
Christian Church

By \_\_\_\_\_

Its Tom Nils

GRANTEE:

\_\_\_\_\_  
\_\_\_\_\_

By \_\_\_\_\_

Its \_\_\_\_\_